

**THIS DOCUMENT WAS NOT WRITTEN FOR PUBLICATION
AND IS NOT BINDING PRECEDENT OF THE BOARD**

Filed by: Trial Division Merits Panel
Mail Stop INTERFERENCE
Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450
Tel: 571-272-9797 Fax: 571-272-0943

Paper No. 74
Entered July 19, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MASAAKI HIROYA and HIROSHI ASAO

Junior Party
(U.S. Patent No. 5,754,654)¹

v.

SHOLOM S. ROSEN

Senior Party
(Application 09/314,738)²

Patent Interference No. 105,355

Before LEE, HANLON and MOORE, Administrative Patent Judge.

LEE, Administrative Patent Judge.

Judgment – Merits – Bd. R. 127

In accordance with the priority decision entered concurrently herewith but in a separate paper, it is

ORDERED that judgment as to the subject matter of Count 1 is entered against junior party MASAAKI HIROYA and HIROSHI ASAO;

¹ Based on Application 08/558,741, filed November 16, 1995. The real party in interest is Hitachi, Ltd.

² Filed May 19, 1999. The real party in interest is Citibank, N.A. Accorded the benefit of application 08/895,395, filed July 16, 1997; application 08/730,158, filed October 23, 1996; application 08/234,461, filed April 28, 1994; and application 08/575,699, filed December 19, 1995.

Interference No. 105,355
Hiroya v. Rosen

FURTHER ORDERED that junior party MASAAKI HIROYA and HIROSHI ASAO is not entitled to its patent claims 1-4 and 12-18 which correspond to Count 1;

FURTHER ORDERED that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and Bd. Rule 205; and

FURTHER ORDERED that a copy of this judgment be placed in the respective involved application or patent of the parties.

/Jameson Lee/

JAMESON LEE

Administrative Patent Judge

/Adriene Lepiane Hanlon/

ADRIENE LEPIANE HANLON

Administrative Patent Judge

/James T. Moore/

JAMES T. MOORE

Administrative Patent Judge

BOARD OF PATENT
APPEALS
AND
INTERFERENCES

Interference No. 105,355
Hiroya v. Rosen

1 By Electronic Transmission

2 Counsel for Junior Party **HIROYA**:

3 Carl I. Brundidge, Esq.
4 MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
5 1800 Diagonal Road, Suite 370
6 Alexandria, Virginia 22314
7 cbrundidge@msmbpatentlaw.com

8 Attorney for senior party **ROSEN**:

9 William S. Feiler, Esq.
10 MORGAN & FINNEGAN, LLP
11 3 World Financial Center
12 New York, New York 10281-2101
13 WFeiler@morganfinnegan.com

14